

**UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re: :  
DOUGLAS M. WEIDNER : Chapter 11  
: No. 10-31304 elf

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**MOTION OF SECURED CREDITOR ROBERT H. BENEDIX, JR. TO  
EXTEND TIME TO FILE A COMPLAINT OBJECTING TO DEBTOR'S  
DISCHARGE PURSUANT TO FED.R.BANKR.P. 4004(b) AND 4007(c)**

Secured Creditor Robert H. Benedix, Jr. (hereinafter "Movant"), by and through his attorney, Jamie W. Goncharoff, Esquire, hereby respectfully moves this Honorable Court for the entry of an Order extending the time to file a complaint objecting to the Debtor's discharge pursuant to Fed.R.Bankr.P. 4004(b) and 4007(c), and in support thereof, Movant respectfully states the following.

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334.
2. Venue is proper pursuant to 28 U.S. C. §§1408 and 1409.
3. The legal basis for the relief sought herein are 11 U.S.C. §105, 11 U.S.C. §727 and Fed.R.Bankr.P. 4004.

### **BACKGROUND**

4. On December 23, 2010, Debtor Douglas M. Weidner filed for protection under Chapter 11 of the Bankruptcy Code.

5. Movant is a secured creditor in the instant bankruptcy proceeding.

6. On June 6, 2011, the instant proceeding was converted to a Chapter 7 proceeding, and Robert H. Holber, Esquire was appointed Trustee.

7. On May 17, 2011, DMW Marine, LLC, a company owned and controlled by Douglas M. Weidner, filed for protection under Chapter 11 of the Bankruptcy Code (docketed at 11-13953).

8. Movant is also a secured creditor in the DMW Marine, LLC proceedings.

9. On May 31, 2011, DMW Marine, LLC was converted to a Chapter 7 proceeding, and Michael H. Kaliner, Esquire was appointed Trustee of said company.

10. On September 13, 2011, Michael H. Kaliner, Chapter 7 Trustee, (hereafter "Trustee"), filed a Motion to Extend Time to File a Complaint Objecting to Debtor's Discharge.

11. Movant hereby concurs with the relief sought by the Trustee, and hereby incorporates and adopts the Trustee's motion, as relevant and applicable.

12. Since the filing of the bankruptcy, Debtor DMW Marine, LLC has not filed their Schedules and the Statement of Financial Affairs.

13. Heretofore, Movant has been unable to locate the assets which serve as security in both bankruptcy proceedings.

14. The Trustee has further been forced to file a Motion to Compel, for either the State Court Receiver, or Douglas M. Weidner, to file Schedules and the Statement of Financial Affairs, so that the Trustee can determine the whereabouts of the assets.

15. Since the DMW Marine, LLC Debtor has not filed Schedules and the Statement of Financial Affairs, the Movant and the Trustee have been unable to determine whether the assets have been fully accounted for by the Debtor, or whether all assets have been accounted for in the instant proceedings.

16. Until the required filings and other possible discovery proceedings take place, Movant is unable to determine whether or not a complaint objecting to a discharge of Douglas W. Weidner would be appropriate in these proceedings.

17. Based upon preliminary investigations and the information revealed during the previous unconcluded meeting of creditors, Movant has reason to believe that the Debtor(s) may have engaged in those prohibited activities set forth in 11 U.S.C. §727.



**RELIEF REQUESTED**

18. Movant respectfully requests the entry of an Order pursuant to Fed.R.Bankr.P. 4004(b) and 4007(c) extending the time to file a complaint objecting to the Debtor's discharge.

19. Currently, the last day to file a complaint objecting to the Debtor's discharge is September 13, 2011.

20. Movant respectfully requests additional time until at least ninety (90) days after the Schedules and the Statement of Financial Affairs are filed by DMW Marine, LLC, in order to determine whether or not there is sufficient evidence to object to the Debtor's discharge pursuant to 11 U.S.C. §523 or 11 U.S.C. §727.

21. Movant respectfully reserves the right to seek further extensions of the period within which to file a complaint objecting to the Debtor's discharge.

WHEREFORE, Movant Robert H. Benedix, Jr. respectfully requests that this Honorable Court enter an Order (i) granting the Motion, (ii) extending the time to file a complaint objecting to the Debtor's discharge until at least ninety (90) days after the Schedules and the Statement of Financial Affairs are filed by DMW Marine, LLC, and (iii) for such other relief as this Court deems just and proper.

Respectfully submitted,

By: /s/ Jamie W. Goncharoff

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Attorney for Movant Robert H. Benedix, Jr.

Dated: September 13, 2011